

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

January 31, 2022

1:03 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Liz Snyder, Vice Chair
Representative Harriet Drummond
Representative Jonathan Kreiss-Tomkins
Representative David Eastman
Representative Sarah Vance

MEMBERS ABSENT

Representative Christopher Kurka

COMMITTEE CALENDAR

HOUSE BILL NO. 246

"An Act restricting the release of certain records of convictions; and providing for an effective date."

- MOVED CSHB 246(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 51

"An Act relating to aggravating factors considered at sentencing."

- MOVED CSHB 51(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 246

SHORT TITLE: ACCESS TO MARIJUANA CONVICTION RECORDS

SPONSOR(S): REPRESENTATIVE(S) KREISS-TOMKINS

01/18/22	(H)	PREFILE RELEASED 1/7/22
01/18/22	(H)	READ THE FIRST TIME - REFERRALS
01/18/22	(H)	JUD, FIN
01/19/22	(H)	JUD AT 1:00 PM GRUENBERG 120
01/19/22	(H)	Heard & Held
01/19/22	(H)	MINUTE(JUD)
01/28/22	(H)	JUD AT 1:30 PM GRUENBERG 120
01/28/22	(H)	Heard & Held
01/28/22	(H)	MINUTE(JUD)

01/31/22 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: HB 51

SHORT TITLE: AGGRAVATING FACTORS AT SENTENCING

SPONSOR(S): REPRESENTATIVE(S) JOSEPHSON

02/18/21 (H) PREFILE RELEASED 1/8/21
02/18/21 (H) READ THE FIRST TIME - REFERRALS
02/18/21 (H) STA, JUD
04/24/21 (H) STA AT 3:00 PM GRUENBERG 120
04/24/21 (H) -- MEETING CANCELED --
05/05/21 (H) STA REFERRAL MOVED TO AFTER JUD
05/05/21 (H) BILL REPRINTED
01/21/22 (H) JUD AT 1:00 PM GRUENBERG 120
01/21/22 (H) Heard & Held
01/21/22 (H) MINUTE(JUD)
01/26/22 (H) JUD AT 1:30 PM GRUENBERG 120
01/26/22 (H) Heard & Held
01/26/22 (H) MINUTE(JUD)
01/28/22 (H) JUD AT 1:30 PM GRUENBERG 120
01/28/22 (H) Scheduled but Not Heard
01/31/22 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

CLAIRE GROSS, Staff
Representative Jonathan Kreiss-Tomkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of the prime sponsor,
Representative Kreiss-Tomkins, answered questions on the
amendments to HB 246.

NANCY MEADE, General Counsel
Office of the Administrative Director
Alaska Court System
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB
246.

LISA PURINTON, Chief
Criminal Records and Identification Bureau
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB
246.

MAX KOHN, Staff
Representative Andy Josephson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of the prime sponsor, Representative Josephson, answered questions during the hearing on HB 51.

ACTION NARRATIVE

[1:03:57 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 12:39 p.m. Representatives Drummond, Snyder, Kreiss-Tomkins, Eastman, and Claman were present at the call to order. Representative Vance arrived as the meeting was in progress.

HB 246-ACCESS TO MARIJUANA CONVICTION RECORDS

[1:04:42 PM](#)

CHAIR CLAMAN announced that the first order of business would be HOUSE BILL NO. 246, "An Act restricting the release of certain records of convictions; and providing for an effective date." [During the meeting on January 28, 2022, the committee passed Amendment 1 to HB 246.]

[1:05:30 PM](#)

REPRESENTATIVE KREISS-TOMKINS moved Amendment 2 to HB 246, labeled, 32-LS1300\A.2, Radford 1/22/22, which read as follows:

Page 3, lines 4 - 5:
Delete all material.

Re-number the following paragraphs accordingly.

Page 3, line 14, following "substance;":
Insert "and"

Page 3, lines 15 - 16:
Delete all material.

Re-number the following paragraph accordingly.

REPRESENTATIVE SNYDER objected.

[1:05:53 PM](#)

CLAIRE GROSS, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, on behalf of the prime sponsor, Representative Kreiss-Tomkins, explained that, pertaining to the Department of Public Safety background checks, the proposed amendment would remove the word "if" on page 2, line 30. She stated that the amendment would prohibit minor marijuana convictions, which meet the criteria of the bill, from being released on a background check.

REPRESENTATIVE SNYDER removed her objection. There being no further objection, Amendment 2 was adopted.

[1:07:22 PM](#)

REPRESENTATIVE KREISS-TOMKINS moved Amendment 3.1 to HB 246, as amended, labeled, 32LS1300\A.7, Radford, 1/29/22, which read as follows:

Page 1, line 8:
Delete "under today's laws"
Insert "on January 1, 2023"

REPRESENTATIVE SNYDER objected.

REPRESENTATIVE KREISS-TOMKINS explained that Amendment 3.1 would provide clarity on the timing of the bill.

REPRESENTATIVE EASTMAN expressed his support of the proposed amendment.

REPRESENTATIVE SNYDER removed her objection. There being no further objection, Amendment 3.1 was adopted.

[1:08:31 PM](#)

REPRESENTATIVE KREISS-TOMKINS moved Amendment 3.2 to HB 246, as amended, labeled 32-LS1300\A.8, Radford, 1/29/22, which read as follows:

Page 3, line 10, following "**possession.**":
Insert "(a)"

Page 3, following line 17:
Insert new material to read:

"(b) The Alaska Court system is not civilly liable for an act or omission relating to the removal of records under this section.

* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

PRIOR COURT RECORDS. The Alaska Court System shall, to the extent practicable, remove court records existing before the effective date of this Act that meet the requirements of AS 22.35.040(a), enacted by sec. 4 of this Act, from the court system's publicly available Internet website."

Renumber the following bill section accordingly.

REPRESENTATIVE SNYDER objected.

MS. GROSS explained that on page 3, line 10 of the bill, the proposed amendment would replace language for conforming and re-lettering, to establish a new section to follow. She said that the new language on page 3, line 17, is based on a recommendation by the court system, as it would remove any legal risk for the courts. She stated that inclusion of the language, "to the extent practicable" would alleviate legal risk to the court, while individuals would still retain the right to appeal information published on CourtView. She noted that Section 5 would apply the restriction on the information for convictions before and after the effective date.

REPRESENTATIVE VANCE referred to lines 6-8 of the amendment and questioned whether the court would be accountable to fulfil this area of law.

[1:11:49 PM](#)

NANCY MEADE, General Counsel, Office of the Administrative Director, Alaska Court System, answered that the court system is not civilly liable for acts of errors or omissions on CourtView, although a lawsuit could be brought. She suggested that a governmental body in general is not liable except in cases of nefariousness or gross negligence. She stated that the language may not be strictly necessary and that the language "to the extent practicable" had been included in other statutes pertaining to the removal of information. She stated that, if passed, the implementation of the [new] statute would be for the court to conduct a search of records related to possession of under an ounce of marijuana by an individual over the age of 21. She noted that a case may not be filed under the particular

statute and is dependent upon the filing of the charges despite the legislative intent of the bill. She reminded the committee that an individual would still retain the right to appeal information published on CourtView and expressed her confidence that nearly all the pertinent cases would be identified.

[1:15:47 PM](#)

REPRESENTATIVE VANCE questioned how the court system would be accountable in the absence of the existence of civil liability to the courts.

MS. MEADE responded by inviting requests for future legislative reporting and suggested that constituents should be asked whether the court is fulfilling its duty. She suggested that the inclusion of the language is a statement of the obvious, and the expectation should be met by the effective date, as with all other statutory requirements of the court. She stated that an error would be regrettable, and the court system would take steps to remedy it.

MS. GROSS expressed the understanding that the effective date would be the [force of law] in the proposed bill.

[1:19:29 PM](#)

REPRESENTATIVE EASTMAN asked how the courts would be prepared to deal with cases which are not prosecuted and convicted under the repealed marijuana criminal possession statute.

MS. MEADE answered that an individual may request records be removed from CourtView. She added that individuals routinely make these requests, the majority of which do not pertain to actual protected information. She stated that, when the court receives such a request, the matter is researched, a determination is made, and a correction is made when necessary. She explained that, should an individual disagree with the determination, an appeal process exists. She noted that court rules also regulate information which may be published on CourtView.

REPRESENTATIVE EASTMAN suggested an amendment to include the word "unknowing" on line 6, following the word "an". He explained that this would distinguish between when the court is making a decision and when it is delayed in processing requests.

REPRESENTATIVE KREISS-TOMKINS suggested that first this be deferred to the court, as this distinction may exist elsewhere in statute. He added that, according to testimony, processing such requests is not a problem for the courts.

MS. MEADE stated that requests are handled within a matter of days, and the suggested language is a matter of policy.

[1:25:13 PM](#)

REPRESENTATIVE EASTMAN moved Conceptual Amendment 1 to Amendment 3.2, such that "the Alaska court system is not civilly liable for an unknowing act or omission relating to the removal of records under this section."

REPRESENTATIVE KREISS-TOMKINS objected.

REPRESENTATIVE EASTMAN expressed discomfort with the broad language of Amendment 3.2. He allowed that the court is "doing its part" to remove records, and his intention would be to address a situation in which an individual is not satisfied.

CHAIR CLAMAN stated that immunity exists for the three branches of government: sovereign immunity for the executive, legislative immunity for legislators, and judicial immunity. Considering judicial immunity, he questioned the rationale for including the subsection.

MS. MEADE answered that it would be in the court's interest to include the language "to the extent practicable". She explained that this is based on previous legislation directing the removal of records in cases of dismissal or acquittal. It would convey the court's acknowledgment of the legislative intent to remove the records, and it would convey the understanding that the court may miss a case.

CHAIR CLAMAN suggested that the deletion of lines 1-7 would create issues with the court because uncodified law would include the language "to the extent practicable".

MS. MEADE expressed agreement with Chair Claman. She expressed the belief that the court is not currently civilly liable for information posted on CourtView.

[1:29:48 PM](#)

CHAIR CLAMAN expressed support for including the word "practicable" in Section 5. He recommended deleting lines 1-7, as there would be partnership between the public and the court system to cleanse records.

REPRESENTATIVE VANCE expressed her support for removing lines 1-7 and questioned the definition of "practicable" and whether it exists in other statutes.

CHAIR CLAMAN offered that "practicable" is heavily used in the law and agreements. He explained that it reflects the best of intent, within reason. He offered a hypothetical scenario in which some candies are spilled in a parking lot, and the agreement to clean them up "to the extent practicable" would convey the understanding that one or more candies may be missed and would not be an indication of ill-intent.

MS. MEADE expressed agreement with the hypothetical scenario. She expressed the understanding that "as practicable" reflects both "as practical" and "as reasonable."

REPRESENTATIVE VANCE questioned, if a member of the public raises an issue, the process of proving [an error or omission], is not "practicable."

CHAIR CLAMAN offered that, should an individual contact the legislature with a complaint concerning records, the court system can be contacted, or a legislator may do so on the person's behalf. He stated that then the court would be obliged to investigate.

REPRESENTATIVE VANCE expressed concern for the scenario where an individual takes all the necessary steps; however, the individual remains unsatisfied.

CHAIR CLAMAN suggested that this scenario does not meet the intent of "practicable."

[1:37:59 PM](#)

REPRESENTATIVE DRUMMOND referred to the report by Legislative Legal and Research Services [included in the committee packet] which reflects that over 700 individuals would be affected [by the proposed legislation]. She requested the source of this data.

MS. MEADE answered that she had provided the data, and it is based on conviction records of possession of marijuana under one ounce. She expressed confidence in the data and noted that the same conduct has had several iterations of legislation over the years. She provided the example of a law in the 1980s, in which an individual would be permitted to possess up to one half a pound of marijuana. She suggested that those records would not logically reflect whether the amount in possession had been under an ounce. She stated that the court receives about 5 to 10 record-review requests per week, and they are resolved with an existing process and may be appealed. She added that no court records prior to 1990 appear on CourtView.

REPRESENTATIVE EASTMAN withdrew Conceptual Amendment 1 to Amendment 3.2.

[1:41:51 PM](#)

REPRESENTATIVE EASTMAN moved Conceptual Amendment 2 to Amendment 3.2, such that lines 1-7 would be deleted. There being no objection, Conceptual Amendment 2 was adopted.

[The committee treated the objection to Amendment 3.2 as if it were removed.]

There being no further objection, Amendment 3.2, as conceptually amended, was adopted.

[1:43:09 PM](#)

REPRESENTATIVE EASTMAN moved Amendment 4, to HB 246, as amended, labeled, 32-LS1300\A.2, Radford, 1/22/22, which read as follows:

Page 3, lines 4 - 5:
Delete all material.

Re-number the following paragraphs accordingly.

Page 3, line 14, following "substance;":
Insert "and"

Page 3, lines 15 - 16:
Delete all material.

Re-number the following paragraph accordingly.

REPRESENTATIVE SNYDER objected.

REPRESENTATIVE EASTMAN explained that the proposed amendment would remove the age distinction from the bill.

CHAIR CLAMAN asked about the significance in the law of the age of 21 years or older.

MS. GROSS answered that a minor under the age of 21 in possession of marijuana would still have committed a crime, and the age of 21 has been included to reflect the change in the marijuana possession criminal law.

REPRESENTATIVE KREISS-TOMKINS suggested that there exist differing perspectives regarding the underlying issues associated with Amendment 4 and expressed reluctance concerning the amendment.

REPRESENTATIVE DRUMMOND expressed opposition to Amendment 4. She argued that a person in possession of marijuana under the age of 21 would still have committed a crime.

REPRESENTATIVE SNYDER concurred with Representative Kreiss-Tomkins.

CHAIR CLAMAN expressed the opinion that an anomaly exists, in which an individual may enlist [in the military] and die, but this individual may not consume alcohol under the age of 21. He stated that the ballot measure which legalized marijuana possession had been passed with the intent that marijuana be regulated like alcohol.

REPRESENTATIVE EASTMAN withdrew Amendment 4.

[1:50:03 PM](#)

REPRESENTATIVE EASTMAN moved Amendment 5, HB 246, as amended, labeled, 32-LS1300\A.1, Radford, 1/24/22, which read as follows:

Page 1, line 1:
Delete "**restricting**"
Insert "**requiring a notification with**"

Page 1, line 4, through page 2, line 28:
Delete all material.

Page 2, line 29:
Delete "**Sec. 3**"

Insert "**Section 1**"

Renumber the following bill sections accordingly.

Page 2, line 30, through page 3, line 7:

Delete all material and insert:

"(f) If a defendant was convicted of an offense under a law that has been repealed since the defendant's conviction and the conduct constituting the conviction does not constitute an offense at the time an agency releases criminal justice information relating to the conviction under this section, the agency shall include a notification in the information stating that the law has been repealed and that the conduct resulting in conviction does not currently constitute an offense."

Page 3, lines 9 - 17:

Delete all material and insert:

"Sec. 22.35.040. Records concerning convictions for conduct no longer constituting a criminal offense. If a defendant was convicted of an offense under a law that has been repealed and the conduct constituting the conviction does not constitute an offense at the time the court records of the defendant's criminal case are viewed on the Alaska Court System's publicly available website, the Alaska Court System shall include a notification with the court records stating that the law has been repealed and that the conduct resulting in conviction does not currently constitute an offense."

REPRESENTATIVE SNYDER objected.

REPRESENTATIVE EASTMAN explained that the amendment would provide for a disclosure of an individual's criminal record, if the conduct the individual was convicted of is no longer criminal.

REPRESENTATIVE VANCE asked which department would be the entity to make the notification proposed in Amendment 5.

REPRESENTATIVE EASTMAN referred to the underlying bill and stated that it would be either the court system or the Department of Public Safety (DPS).

REPRESENTATIVE VANCE asked whether the intent would be to provide for a notification or flag the conviction.

REPRESENTATIVE EASTMAN answered that a review of records would take place upon a criminal background check via the court system or DPS to ensure that the proposed notification appeared on the background check.

REPRESENTATIVE SNYDER asked whether the proposed amendment would allow the disclosure of certain convictions with a notation that the offense is no longer a crime.

REPRESENTATIVE EASTMAN answered yes.

REPRESENTATIVE SNYDER asked whether the proposed amendment would apply to all convictions for behaviors which are no longer considered criminal, rather than only those of marijuana possession.

REPRESENTATIVE EASTMAN expressed his hope that it would apply to future behaviors which may be decriminalized.

[1:54:06 PM](#)

CHAIR CLAMAN referred the court system to page 2 and DPS to page 1 of the amendment and asked each to describe the impacts if Amendment 5 were to be adopted.

MS. MEADE, answering on behalf of the court system, expressed the belief that this would result in additional work and associated costs. She stated that it is rare for the legislature to decriminalize certain behaviors. She offered the scenario in which a speeding ticket was issued for a driver exceeding the speed limit. Later the speed limit was increased; therefore, a notation would be required to indicate that this is no longer a crime. She stated that, while cases may be removed from CourtView, as a matter of security, the system does not permit notations after a case is closed. She estimated a change to the system would result in tens of thousands of dollars in system modification costs.

[1:57:11 PM](#)

LISA PURINTON, Chief, Criminal Records and Identification Bureau, Department of Public Safety, answering on behalf of DPS, asked whether the amendment would delete the record and provide a notification in the record that a conviction had occurred.

REPRESENTATIVE EASTMAN answered that there would not be the need to delete the records, only to add a notification.

MS. PURINTON answered that adding the information would result in extra work, and that nationally shared databases have data restrictions. She stated that information handled within the state could be modified and cautioned that the nationally shared data could not.

CHAIR CLAMAN suggested that, should the amendment pass, the committee could expect additional fiscal notes.

REPRESENTATIVE SNYDER expressed her support for the spirit of the amendment; however, she indicated she would not vote in favor of adoption because of the broadening of the scope of the underlying bill.

REPRESENTATIVE KREISS-TOMKINS concurred with Representative Snyder. He recalled Ms. Meade's earlier observation that it is uncommon for the legislature to decriminalize certain behaviors. He stated that standalone legislation drafted in the spirit of the amendment would likely have his support.

REPRESENTATIVE VANCE asked whether efforts have been made to seek technologies to automate the additional workload described by the courts and DPS, as this would bring uniformity to address changes to existing laws.

MS. MEADE answered that CourtView is functionally a case management system and is not designed to inform the public on legality. She explained that the case management system is a record of what occurs in court and tracks case information for interested parties. She explained that it is her role in the court system to disseminate changes made by the legislature, and no technology has been sought to automate this process.

REPRESENTATIVE VANCE complimented the court system and DPS in managing large amounts of information and allowed that the proposed amendment could add costs.

MS. MEADE stated that the court system has not drafted a fiscal note. She cautioned that the convictions associated with the bill occurred in the past, and that technologies for new occurrences would differ from what is required to retroactively manage records. She stated that CourtView meets the operational requirements of the courts, and there are no plans to replace

it. She expressed her belief that the requirements of the underlying bill could be met.

[2:05:07 PM](#)

CHAIR CLAMAN expressed agreement with most of the comments offered. He stated that legislation regarding expungement was "not even close" to the discussions taking place in the legislature and in public.

REPRESENTATIVE EASTMAN acknowledged the concerns expressed as valid and withdrew Amendment 5.

REPRESENTATIVE EASTMAN expressed the opinion that HB 246 has improved during the committee process.

REPRESENTATIVE DRUMMOND thanked the bill sponsor; however, she expressed caution in the future for changing existing laws.

REPRESENTATIVE KREISS-TOMKINS thanked the committee for the discussion.

[2:08:48 PM](#)

REPRESENTATIVE SNYDER moved to report HB 246, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 246(JUD) was reported from the House Judiciary Standing Committee.

HB 51-AGGRAVATING FACTORS AT SENTENCING

[2:09:12 PM](#)

CHAIR CLAMAN announced that the final order of business would be HOUSE BILL NO. 51, "An Act relating to aggravating factors considered at sentencing."

[2:10:18 PM](#)

The committee took a brief at-ease.

[2:11:12 PM](#)

REPRESENTATIVE EASTMAN moved Amendment 3 to HB 51, labeled, 32-LS0325\A.3, Radford, 1/24/22, which read as follows:

Page 4, line 7:

Delete "or national origin"
Insert "[OR] national origin, or immunization
status"

REPRESENTATIVE SNYDER objected.

REPRESENTATIVE EASTMAN stated that Amendment 3 would add "or immunization status" to the list of aggravating factors at sentencing.

[2:12:24 PM](#)

MAX KOHN, Staff, Representative Andy Josephson, Alaska State Legislature, on behalf of the prime sponsor, Representative Josephson, expressed opposition to the adoption of Amendment 3. He explained that the aggravating factors in AS 22, commonly known as "hate crimes," refer to immutable characteristics and do not relate to an immunization status. He suggested that other statutes may exist which could be changed to accommodate immunization status, if it is the wish of the legislature.

REPRESENTATIVE EASTMAN questioned the bill sponsor's opinion on whether sexual orientation is an immutable characteristic.

MR. KOHN expressed the opinion that immutable characteristics generally occur at birth; nonetheless, he offered to follow up to the committee with additional information to fully answer the question.

CHAIR CLAMAN acknowledged that there may exist differences in perspectives [on the question regarding immutable characteristics].

REPRESENTATIVE KREISS-TOMKINS suggested that the premise of the proposed legislation is to protect certain individuals from violence predicated on hate, regardless of whether characteristics are immutable.

REPRESENTATIVE EASTMAN suggested that an individual may be targeted with violence because of immunization status.

[2:15:45 PM](#)

A roll call vote was taken. Representatives Eastman and Vance voted in favor of Amendment 3 to HB 51. Representatives Drummond, Snyder, Kreiss-Tomkins, and Claman voted against it. Therefore, Amendment 3 failed by a vote of 2-4.

[2:16:25 PM](#)

REPRESENTATIVE EASTMAN moved Amendment 4 to HB 246, labeled, 32-LS0325\A.4, Radford, 1/24/22, which read as follows:

Page 4, line 7, following "identity,":
Insert "pregnancy,"

REPRESENTATIVE SNYDER objected.

REPRESENTATIVE EASTMAN explained that pregnancy is notably absent from the list of aggravating factors.

MR. KOHN provided that the prime sponsor is in opposition to Amendment 4. He stated that case law has shown to include pregnant people in Alaska, such that a defendant knew, or reasonably should have known, the victim of the offense was particularly vulnerable or unable to resist the offense.

REPRESENTATIVE EASTMAN asked whether the cases involved with pregnancy pertain to either the pregnant person or the child not yet born.

MR. KOHN expressed the understanding that the law considered both lives.

[2:20:21 PM](#)

A roll call vote was taken. Representatives Vance and Eastman voted in favor of Amendment 4 to HB 51. Representatives Drummond, Snyder, Kreiss-Tomkins, and Claman voted against it. Therefore, Amendment 4 failed by a vote of 2-4.

[2:21:02 PM](#)

REPRESENTATIVE EASTMAN moved Amendment 5 to HB 51, labeled, 32-LS0325\A.5, Radford, 1/25/22, which read as follows:

Page 4, line 7, following "ancestry,":
Insert "nationality,"

REPRESENTATIVE SNYDER objected.

MR. KOHN provided that the prime sponsor is not in opposition to Amendment 5.

REPRESENTATIVE KREISS-TOMKINS questioned instances of hate crimes which were motivated by nationality.

REPRESENTATIVE EASTMAN responded that the amendment is designed to protect all nationalities. He suggested that research may reveal crimes which have occurred against citizens of Israel.

CHAIR CLAMAN questioned the difference between "nationality" and "national origin."

REPRESENTATIVE EASTMAN responded that "national origin" could be interpreted as citizenship at the time of birth, while "nationality" could be interpreted to be where someone is born. He deferred to the drafter of the amendment.

REPRESENTATIVE CLAMAN requested that Representative Eastman confirm his assertion that "nationality" and "national origin" may share some overlap but not necessarily apply to the same subset of people.

REPRESENTATIVE EASTMAN requested legal counsel to make the distinction.

[2:24:24 PM](#)

A roll call vote was taken. Representatives Vance, Snyder, and Eastman voted in favor of Amendment 5 to HB 51. Representatives Drummond, Kreiss-Tomkins, and Claman voted against it. Therefore, Amendment 5 failed by a vote of 3-3.

[2:25:22 PM](#)

REPRESENTATIVE EASTMAN moved Amendment 6 to HB 51, labeled 32-LS0325\A.6, Radford, 1/25/22, which read as follows:

Page 4, line 7, following "ancestry,"
Insert "citizenship,"

REPRESENTATIVE SNYDER objected.

MR. KOHN provided that the prime sponsor is not in opposition to Amendment 6.

[2:26:40 PM](#)

A roll call vote was taken. Representatives Eastman, Vance, Snyder and Claman voted in favor of Amendment 6 to HB 51.

Representatives Drummond and Kreiss-Tomkins voted against it. Therefore, Amendment 6 was adopted by a vote of 4-2.

[2:27:31 PM](#)

REPRESENTATIVE EASTMAN moved Amendment 7 to HB 51, as amended, labeled, 32-LS0325\A.7, Radford, 1/25/22, which read as follows:

Page 4, line 7:
Delete "creed"
Insert "religion [CREED] "

REPRESENTATIVE SNYDER objected.

REPRESENTATIVE EASTMAN stated that the amendment proposes a grammatical change as "creed" is no longer common parlance.

MR. KOHN provided that the prime sponsor is not in opposition to Amendment 7.

CHAIR CLAMAN asked whether there exists a difference between [spiritual practice] and religion. He postulated that religion may fit within the definition of "creed."

REPRESENTATIVE EASTMAN expressed the belief that [spiritual practice] is the opposite of religion, as it does not necessarily have a basis in doctrine. He expressed the opinion that a sincerely held belief would most likely meet the definition of religion.

CHAIR CLAMAN requested that Representative Eastman cite the source of the definitions being discussed.

REPRESENTATIVE EASTMAN responded that the definitions have been sourced from the dictionary in consultation with the drafter.

REPRESENTATIVE SNYDER expressed opposition to the amendment, as it would narrow the definitions, possibly excluding those who practice agnosticism or atheism.

REPRESENTATIVE EASTMAN argued that the drafter would agree that atheism is a protected class. He stated that "creed" could be inclusive of individuals as part of civic organizations who may swear an oath.

[2:32:47 PM](#)

A roll call vote was taken. Representatives Eastman and Vance voted in favor of Amendment 7 to HB 51, as amended. Representatives Drummond, Snyder, and Claman voted against it. Therefore, Amendment 7 failed by a vote of 2-3.

[2:33:28 PM](#)

REPRESENTATIVE EASTMAN moved Amendment 8 to HB 51, as amended, labeled, 32-LS0325\A.8, Radford, 1/25/22, which read as follows:

Page 4, line 7, following "creed,":

Insert "**status as a conscientious objector,**"

REPRESENTATIVE SNYDER objected.

REPRESENTATIVE EASTMAN explained that there had been instances of wartime drafts and instances of poor treatment of conscientious objectors.

MR. KOHN provided that the prime sponsor is in opposition to Amendment 8.

REPRESENTATIVE EASTMAN suggested that the amendment was timely in the absence of wartime.

[2:35:20 PM](#)

A roll call vote was taken. Representatives Eastman and Vance voted in favor of Amendment 8 to HB 51, as amended. Representatives Snyder, Drummond, and Claman voted against it. Therefore, Amendment 8 failed by a vote of 2-3.

[2:36:01 PM](#)

REPRESENTATIVE EASTMAN moved Amendment 9, to HB 51, as amended, labeled, 32-LS0325\A.9, Radford, 1/25/22, which read as follows:

Page 4, line 7, following "creed,":

Insert "**status as a dissident,**"

REPRESENTATIVE SNYDER objected.

REPRESENTATIVE EASTMAN explained that dissidence is protected in other laws and should be included in the modification of the statute being considered.

MR. KOHN provided that the prime sponsor is in opposition to Amendment 9.

REPRESENTATIVE VANCE asked the reason a person dissenting should enjoy protection while those who are treasonous would still be pursued.

REPRESENTATIVE EASTMAN answered that a dissident would apply only to lawful dissidence and would not apply to criminal dissidence. He added that a dissident is one opposed to government policies.

REPRESENTATIVE DRUMMOND asked whether any other states include dissidents in hate crime legislation.

REPRESENTATIVE EASTMAN answered that he is unaware of any other states with such legislation, as the need for this protection is a recent development.

CHAIR CLAMAN added that sentencing structures may vary among different states.

REPRESENTATIVE KREISS-TOMKINS asked for an example of a dissident who would have benefitted from the proposed protection.

REPRESENTATIVE EASTMAN referred to an individual who had been targeted because of having worn a political [themed] hat.

CHAIR CLAMAN questioned the hat.

REPRESENTATIVE EASTMAN answered that it bore the words "Make America Great Again" and added the protection should apply to any attire.

CHAIR CLAMAN asked whether the example was that of the hat or that of the individual wearing the hat.

REPRESENTATIVE EASTMAN answered that the individual in the picture was "going to take some time to recover from their physical injuries which were very much tied to their political attire when they were attacked."

REPRESENTATIVE KREISS-TOMKINS asked the name of the individual in the example offered by Representative Eastman.

REPRESENTATIVE EASTMAN answered he is not aware of the name of the person in the photo; however, he knows of "other people." He expressed the opinion that it is unfortunate that the need exists for the proposed amendment. He referred to a shooting which had occurred at a Republican [Party] baseball training event and characterized the occurrence as an indicator of behaviors which should be included in the statute.

[2:41:53 PM](#)

A roll call vote was taken. Representatives Eastman and Vance voted in favor of Amendment 9 to HB 51, as amended. Representatives Drummond, Snyder, Kreiss-Tomkins, and Claman voted against it. Therefore, Amendment 9 failed by a vote of 2-4.

[2:42:32 PM](#)

REPRESENTATIVE EASTMAN moved Amendment 10 to HB 51, as amended, labeled, 32-LS0325\A.10, Radford, 1/25/22, which read as follows:

Page 4, line 7:

Delete the second occurrence of "or"

Insert "[OR]"

Following "origin":

Insert ", refusal to participate in a boycott, divesting from, sanctioning, or condemning another person, or refusal to invest in another person"

REPRESENTATIVE SNYDER objected.

REPRESENTATIVE EASTMAN referred to some ongoing campaigns targeting specific nations. He stated that the right to abstain from participating in a boycott should be protected in the statute.

MR. KOHN provided that the prime sponsor is in opposition to Amendment 10.

REPRESENTATIVE EASTMAN encouraged including the protection as drafted in the amendment.

[2:45:09 PM](#)

REPRESENTATIVE KREISS-TOMKINS referred to a quote, which he supposed was attributed to the U.S. Supreme Court Justice Sandra

Day O'Connor. The quote related that most cases are brought in order to decide where a line should be drawn. He said that a "litany" of amendments has been presented, with the suggestion that each of the proposed classes among the amendments deserve protection. He pointed out that the protected classes have demonstrable instances of hate or crime against them; however, there are not likely substantive instances [of hate or crime] to support the current and previously proposed amendments.

REPRESENTATIVE VANCE recalled previous testimony of four instances of hate crime per year specifically targeting the lesbian, gay, bisexual, and transgender community. She questioned whether four crimes would amount to a substantive level. She argued that the other classes in the proposed amendments should enjoy the same protections. She suggested that larger issues should be considered.

CHAIR CLAMAN cautioned that the most recent comments pertained more to the proposed legislation, as a whole. He recommended the committee direct attention to the proposed amendment.

REPRESENTATIVE EASTMAN pointed out that boycott, divestment, and sanction campaigns have a negative impact on Alaskans.

[2:51:21 PM](#)

A roll call vote was taken. Representatives Vance and Eastman voted in favor of Amendment 10 to HB 51, as amended. Representatives Drummond, Snyder, Kreiss-Tomkins, and Claman voted against it. Therefore, Amendment 10 failed by a vote of 2-4.

REPRESENTATIVE KREISS-TOMKINS suggested that the previously proposed amendments are not germane to the crimes which are being committed against the protected classes in the statute and against those proposed in HB 51. He expressed his support for the bill.

REPRESENTATIVE DRUMMOND expressed her support for HB 51.

REPRESENTATIVE EASTMAN spoke about his observations of changes taking place in society which have resulted in more individuals being targeted for political beliefs. He expressed a strong belief that steps should be taken to stop this violence.

CHAIR CLAMAN stated that the sentencing structure related to felonies, along with aggravating and general factors, exist to

address serious crimes, such as assault. He pointed out that the question exists as to whether the assault rises above an average assault, which is still a serious crime. He expressed the opinion that there has been value in the preceding discussion; however, he cautioned against addressing relatively recent developments in society.

[2:58:22 PM](#)

REPRESENTATIVE SNYDER moved to report HB 51, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 51(JUD) was reported from the House Judiciary Standing Committee.

[2:59:00 PM](#)

The committee took a brief at-ease.

[2:59:36 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:59 p.m.